

## REMARKS

The Office Action mailed December 12, 2007, has been received and reviewed. The application is to be amended as previously set forth. No new matter is added. All amendments are made without prejudice or disclaimer. Reconsideration is respectfully requested.

### 35 U.S.C. §112

Claim 3 stands rejected under 35 U.S.C. §112, second paragraph. Claim 3 has been appropriately amended, and applicants therefore request that the rejection be withdrawn.

### 35 U.S.C. §103

Claim 3 stands rejected under 35 U.S.C. §103(a) as allegedly being made obvious by Weld et al. in view of Clough et al. Applicants respectfully traverse the rejection.

Weld et al. teaches a T-DNA construct carrying the Ac transposase and transforming the leaf-disc transformed with a Ds element via *A. tumefaciens*. Clough et al. teaches Agrobacterium mediated, *in planta*, transformation of *Arabidopsis*.

In the leaf disc method, a tissue carrying a Ds element is transformed with a transposase-encoding DNA. Since the transposon is only deleted from only a portion of the cells in the tissue, it is necessary to isolate the cells from which the transposon has been removed. In contrast, in the instantly claimed *in planta* transformation method, eggs carrying a Ds element are transformed with the transposase-encoding DNA. Thus, it is unnecessary to select cells from which the transposon is removed from the tissue. Without such a step, there would be no reasonable expectation of success. Furthermore, the result would be not be expected from the combined references, and thus the claimed method is not obvious.

In view of the foregoing amendments and remarks, the application should be in condition for allowance. Should questions exist after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



Allen C. Turner  
Registration No. 33,041  
Attorney for Applicants  
TRASKBRITT, PC  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: March 27, 2008